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# COMMONWEALTH of VIRGINIA

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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### STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Federal Pacific Transformer Company Registration No. 11058

#### SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1 – 1301 and 10.1 – 1184, between the State Air Pollution Control Board and the Federal Pacific Transformer Company for the purpose of resolving certain violations of State Air Pollution Control Board Regulations.

#### SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184 of the Code.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Regional Office" means the Southwest Regional Office of the Department.
6. "Order" means this document, also known as a Consent Order.
7. "Regulations" means the "State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution", which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).
8. "Company" means Electro-Mechanical Corporation DBA Federal Pacific Transformer Company, Old Airport Road Industrial Park, 1 Goodson Street, Bristol, Virginia 24203-8200.

**SECTION C: Findings of Facts and Conclusions of Law**

1. Federal Pacific owns and operates a dry-type transformer manufacturing facility at 1 Goodson Street, Old Airport Road Industrial Park, Bristol, Virginia 24203-8200.
2. Federal Pacific was issued a permit to modify and operate a dry-type transformer manufacturing facility (Registration # 11058) on February 14, 2002.
3. On September 6, 7 and 9, 2005 Department of Environmental Quality Inspector Don Hilt performed a walk through inspection and permit review of Federal Pacific's Bristol, Virginia plant, Registration #11078. Some problems and/or deficiencies were observed.
4. Permit Condition # 4 (Emission Controls) states in part: "VOC, volatile toxic and odorous emissions from the operation of the curing ovens shall be controlled by an Engelhard Camet Oxidation Catalyst module, or equivalent, following in series the afterburner, which shall act as a preheater. The afterburner/preheater shall be equipped with two gas-fired burners rated at a minimum of 1,000,000 BTU/hr heat input each. The catalyst substrate shall be demonstrated to function at design specifications through annual or more frequent removal and testing of test buttons from the module." During the above mentioned inspections it was observed that only one of the two burners was operating. Mr. Wright stated the second burner failed some time ago and had never been repaired. It was also noted that only one catalyst button testing had been performed since the permit was issued.
5. Permit Condition # 7 (Operation) states in part: "The primary and secondary burners of the afterburner/preheater shall operate in such a manner as to produce a temperature of at least 600 F at the catalyst gas flow inlet... A thermostatic control system shall be installed and operated in conjunction with the thermocouples that achieves the required minimum temperature at the catalyst module gas flow inlet before operation of the curing ovens commences." During the above mentioned inspections it was observed on 9-6-05 that the catalyst temperature finally reached 600 F but almost 2 hours after oven #2 started up. On 9-7-05 the catalyst temperature never did reach 600 F. The company was commencing operation of the curing ovens prior to achieving the minimum temperature of 600 F.
6. Permit Condition # 13d. (On Site Records) states in part: The dates on which the 'test buttons' from the catalyst module were sent for evaluation to the lab, and the results of the expected lifetime and control efficiency evaluation. The frequency of the evaluation is to be no less than semiannually for the first two years. The Director, SWRO, may reevaluate this schedule after that time to determine if changes should be made to the testing frequency." During the above mentioned inspections the company provided the results of one test and said that was the only button test that had been performed since the catalyst was installed.

7. The following regulations are applicable to this permitted source : 9 VAC 5-170-160.A – (Conditions on Approvals) of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states in part: The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits. Other applicable regulations include : 9 VAC 5-50-260 – (Standard for Stationary Sources). 9VAC 5-80-10H - (Permits – New and Modified Stationary Sources) and 9 VAC 5-50-50 - (Notification, Records, and Reporting).
8. On September 28, 2005, DEQ sent a Notice of Violation Letter (NOV No. 9-5-05) for a permit violation, by Certified Mail-Return Receipt Requested, to Federal Pacific Transformer Company, informing the Company that DEQ had reason to believe that a violation of Air Pollution Law and Regulations : 9 VAC 5-170-160.A, 9 VAC 5-50-260, 9 VAC 5-80-10H, and 9 VAC 5-50-50 had occurred.

**SECTION D: Agreement and Order**

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1 – 1316 (C), orders Federal Pacific Transformer Company and Federal Pacific Transformer Company agrees to pay a civil charge of \$7070.00 within 30 days of the effective date of this Order. Payment shall be made by check payable to the “Treasurer of Virginia”, delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

For purposes of properly identifying its payment, Federal Pacific shall include with the check, a notification of its Registration Number, Federal Identification Number and the fact that payment is being made in accordance with the terms of this Order.

2. The Company has submitted an acceptable Corrective Action Plan, including milestone dates, detailing actions that Federal Pacific has taken and/or plans to take to correct the current problems and actions implemented to prevent future noncompliance with above referenced regulations.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Federal Pacific Transformer Company for good cause shown by the Company, or on its own motion after notice and opportunity to be heard.
2. Nothing herein shall be construed as altering, modifying, or amending any term or condition contained in the Company's Virginia Stationary Source Permit to Operate dated February 14, 2002.

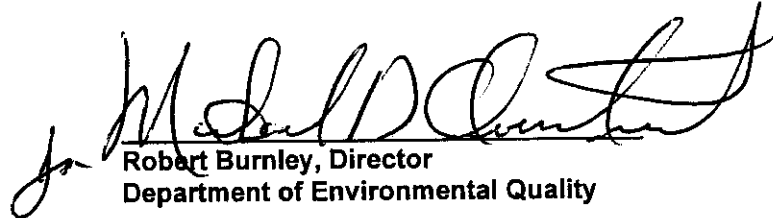
3. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of Federal Pacific Transformer Company as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
4. For purposes of this Order and subsequent actions with respect to this order, Federal Pacific Transformer Company admits the jurisdictional allegations, factual findings, or conclusions of law contained herein.
5. Federal Pacific Transformer Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
6. Federal Pacific Transformer Company declares it has received fair and due process under the Administrative Process Act, Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board or Director to enforce this Order.
7. Failure by Federal Pacific Transformer Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
8. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
9. Federal Pacific Transformer Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Federal Pacific Transformer Company must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Federal Pacific Transformer shall notify the Director, Southwest Regional Office of DEQ within 24 hours with a follow-up in writing within seven days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

**Failure to so notify the Director, Southwest Regional Office of DEQ within 24 hours of learning of any condition listed above, which the Company intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.**


- 10. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.**
- 11. This Order shall become effective upon execution by both the Director or his designee and Federal Pacific Transformer Company. Notwithstanding the foregoing, the Company agrees to be bound by any compliance date, which precedes the effective date of this Order.**
- 12. This Order shall continue in effect until the Director or the Board terminates the Order in his or its sole discretion upon 30 days written notice to Federal Pacific Transformer Company. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Federal Pacific Transformer Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.**

13. By its signature below, Federal Pacific Transformer Company voluntarily agrees to the issuance of this Order.

And it is ORDERED this day of 18<sup>th</sup> of October 2005

  
Robert Burnley, Director  
Department of Environmental Quality

Federal Pacific Transformer Company voluntarily agrees to the issuance of this Order.

  
Morris Arnold, President  
Electro-Mechanical Corporation  
DBA Federal Pacific Transformer Company  
Date: Oct. 7 '05

Commonwealth of Virginia

City/County of Richmond

The foregoing document was signed and acknowledged before me this 17<sup>th</sup> day of October, 2005 by Morris Arnold on behalf of  
Electro-Mechanical Corporation  
DBA Federal Pacific Transformer Company

Date: 10/07/05   
Notary Public

My commission expires: 10/31/08